

MT LEGISLATIVE HISTORY

Chapter 227 19 91

Bill H 719 S _____

Original bill & hist. / C

H. Committee on Business & Economic Development S. Committee on Business & Industry

Hearing Date(s) Feb 22 / C

Hearing Date(s) Mar 18 / C

_____ C

Mar 26 / C

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Date Out Feb 22 / C

Mar 26 / C

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

Note: A Free Conference Committee
was appointed, but its minutes
were not recorded.

2/14	FISCAL NOTE PRINTED		
2/18	HEARING		
2/19	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/21	PLACED ON CONSENT CALENDAR		
2/23	3RD READING PASSED	97	1
TRANSMITTED TO SENATE			
2/25	FIRST READING		
2/25	REFERRED TO EDUCATION & CULTURAL RESOURCES		
3/18	HEARING		
3/21	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/22	2ND READING CONCURRED	48	0
3/23	3RD READING CONCURRED	47	0
RETURNED TO HOUSE WITH AMENDMENTS			
4/09	2ND READING AMENDMENTS CONCURRED	95	2
4/10	3RD READING AMENDMENTS CONCURRED	99	0
4/18	SIGNED BY SPEAKER		
4/19	SIGNED BY PRESIDENT		
4/19	TRANSMITTED TO GOVERNOR		
4/23	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 568		
	EFFECTIVE DATE: 04/23/91 - SECTIONS 1-5, 7-12		
	EFFECTIVE DATE: 07/01/91 - SECTION 6		

HB 716 INTRODUCED BY CONNELLY, ET AL.

ALLOW COUNTIES AND DISTRICTS TO ASSESS
FEE FOR DOG CONTROL PROGRAMS

2/08	INTRODUCED
2/08	REFERRED TO LOCAL GOVERNMENT
2/09	FIRST READING
2/19	HEARING
2/19	TABLED IN COMMITTEE

HB 717 INTRODUCED BY ELLISON, ET AL.

ALLOW ATTORNEY GENERAL ANTI-TRUST AUTHORITY

2/08	INTRODUCED
2/08	REFERRED TO APPROPRIATIONS
2/09	FIRST READING
3/07	HEARING
3/23	TABLED IN COMMITTEE

HB 718 INTRODUCED BY ELLIOTT, ET AL.

PERMIT DEPARTMENT OF HEALTH TO COLLECT FEES TO OFFSET
WATER QUALITY PROGRAM COSTS
BY REQUEST OF DEPARTMENT OF HEALTH &
ENVIRONMENTAL SCIENCES

2/08	INTRODUCED
2/08	REFERRED TO NATURAL RESOURCES
2/09	FIRST READING
2/09	FISCAL NOTE REQUESTED
2/16	FISCAL NOTE RECEIVED
2/18	FISCAL NOTE PRINTED
3/12	HEARING
3/15	COMMITTEE REPORT—BILL PASSED AS AMENDED
3/16	REFERRED TO APPROPRIATIONS
3/21	HEARING
3/23	TABLED IN COMMITTEE

HB 719 INTRODUCED BY D. BROWN, ET AL.

RESTRICT PERSONS WHO MAY CONDUCT PHYSICAL EXAM OR
REVIEW CERTAIN RECORDS

2/08	INTRODUCED		
2/08	REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT		
2/09	FIRST READING		
2/22	HEARING		
2/22	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/23	2ND READING PASSED AS AMENDED	65	32
2/26	3RD READING PASSED	63	36

TRANSMITTED TO SENATE			
2/27	FIRST READING		
2/27	REFERRED TO BUSINESS & INDUSTRY		
3/18	HEARING		
3/26	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/28	2ND READING CONCURRED AS AMENDED	28	43
4/01	3RD READING CONCURRED	49	0

RETURNED TO HOUSE WITH AMENDMENTS			
4/09	2ND READING AMENDMENTS NOT CONCURRED	98	0
4/11	FREE CONFERENCE COMMITTEE APPOINTED		
4/18	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/19	2ND READING FREE CONFERENCE COMMITTEE		
	REPORT NO. 1 ADOPTED	92	5
4/19	3RD READING FREE CONFERENCE COMMITTEE		
	REPORT NO. 1 ADOPTED	93	4

SENATE			
4/18	FREE CONFERENCE COMMITTEE APPOINTED		
4/18	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/19	2ND READING FREE CONFERENCE COMMITTEE		
	REPORT NO. 1 ADOPTED	49	0
4/20	3RD READING FREE CONFERENCE COMMITTEE		
	REPORT NO. 1 ADOPTED	47	0

4/25	SIGNED BY SPEAKER
4/25	SIGNED BY PRESIDENT
4/25	TRANSMITTED TO GOVERNOR
4/29	SIGNED BY GOVERNOR
	CHAPTER NUMBER 727

EFFECTIVE DATE: 7/01/91

HB 720 INTRODUCED BY FORRESTER, ET AL.

PROHIBIT USE OF EX-BUS ON PUBLIC HIGHWAYS
WITH WORD "SCHOOL" STILL VISIBLE

2/08	INTRODUCED
2/08	REFERRED TO HIGHWAYS & TRANSPORTATION
2/09	FIRST READING
2/16	HEARING
2/18	COMMITTEE REPORT—BILL PASSED AS AMENDED
2/25	2ND READING DO PASS MOTION FAILED

49 50

HB 721 INTRODUCED BY BECKER

PROVIDE FUNDS FOR AUTOPSIES BY IMPOSITION
OF TAX ON SOME INSURANCE PREMIUMS

2/08	INTRODUCED
2/08	REFERRED TO TAXATION
2/09	FIRST READING
2/09	FISCAL NOTE REQUESTED
2/16	FISCAL NOTE RECEIVED
2/18	FISCAL NOTE PRINTED
3/06	HEARING
3/11	REVISED FISCAL NOTE PRINTED
3/21	TABLED IN COMMITTEE

HB 722 INTRODUCED BY GRADY, ET AL.

CLARIFIES THAT BOARD MEMBERS WITH LAND IN
WEED CONTROL ARE NOT IN VIOLATION

HOUSE BILL NO. 719

INTRODUCED BY D. BROWN, PAVLOVICH, DRISCOLL, STRIZICH,
SPRING, CODY, VAUGHN, T. BECK

IN THE HOUSE

FEBRUARY 8, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON BUSINESS & ECONOMIC DEVELOPMENT.

FEBRUARY 9, 1991 FIRST READING.

FEBRUARY 22, 1991 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 23, 1991 PRINTING REPORT.

 SECOND READING, DO PASS AS AMENDED.

FEBRUARY 25, 1991 ENGROSSING REPORT.

FEBRUARY 26, 1991 THIRD READING, PASSED.
AYES, 63; NOES, 36.

 TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 27, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON BUSINESS & INDUSTRY.

 FIRST READING.

MARCH 26, 1991 COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

MARCH 28, 1991 SECOND READING, CONCURRED IN AS
AMENDED.

APRIL 1, 1991 THIRD READING, CONCURRED IN.
AYES, 49; NOES, 0.

 RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 29, 1991 RECEIVED FROM SENATE.

 SECOND READING, AMENDMENTS NOT
CONCURRED IN.

APRIL 11, 1991

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 16, 1991

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 18, 1991

FREE CONFERENCE COMMITTEE REPORTED.

SECOND READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

APRIL 19, 1991

THIRD READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

IN THE SENATE

APRIL 20, 1991

FREE CONFERENCE COMMITTEE
REPORT ADOPTED.

IN THE HOUSE

APRIL 22, 1991

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

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HOUSE BILL NO. 719
 INTRODUCED BY One Bill Carlisle Drum
Spring Cady Chapman T. Bush
 A BILL FOR AN ACT ENTITLED: "AN ACT RESTRICTING PERSONS WHO
 MAY CONDUCT A PHYSICAL EXAMINATION OR REVIEW OF CHIROPRACTIC
 RECORDS ON BEHALF OF AN INSURER; AND AMENDING SECTION
 33-1-102, MCA."

WHEREAS, the quality of chiropractic care provided to
 and received by Montana residents has been negatively
 affected in certain cases by the activities of independent
 chiropractic medical examiners; and

WHEREAS, health care insurers often employ persons who
 are not qualified to evaluate Montana claims, conduct a
 physical examination, or review chiropractic records to aid
 the insurer in making a determination regarding the
 propriety of chiropractic treatment and the costs of the
 treatment; and

WHEREAS, the ability of Montana chiropractors to meet
 uniform standards of treatment and patient care is impaired
 because the criteria applied by persons conducting the
 examinations or record reviews are subjective and differ
 widely among the persons, resulting in a wide variance in
 the procedures employed; and

WHEREAS, the ability of Montana chiropractors to provide

timely and effective chiropractic care to Montana residents
 is impaired because the persons conducting the examinations
 or record reviews, especially those providing the services
 from outside Montana, are often inaccessible to Montana
 chiropractors.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1.** Independent chiropractic
 physical examination or review of records. (1) A health care
 insurer may not contract with or employ a person to conduct
 a physical examination of a patient or a review of a
 chiropractor's records, to generate a report or opinion to
 aid the insurer in making a determination regarding the
 condition or further chiropractic treatment of a patient, or
 to determine or recommend whether chiropractic services or
 charges should be covered unless the person is currently
 licensed to practice chiropractic in this state pursuant to
 the provisions of Title 37, chapter 12, and has either:

(a) previously practiced in active direct patient care
 and management in Montana for at least 10 years; or

(b) been licensed to practice chiropractic for at least
 5 years and is involved, at the time of conducting the
 examination or review of records, in active direct patient
 care and management for at least 20 hours a week.

(2) As used in this section, "health care insurer"

1 means:

2 (a) an insurer who provides disability insurance as
3 defined in 33-1-207;

4 (b) a health service corporation as defined in
5 33-30-101;

6 (c) a health maintenance organization as defined in
7 33-31-102;

8 (d) a fraternal benefit society as defined in 33-7-102;

9 (e) an administrator as defined in 33-17-102;

10 (f) an insurer providing workers' compensation coverage
11 pursuant to Title 39, chapter 71; and

12 (g) any other entity regulated by the commissioner that
13 provides health care coverage.

14 **Section 2.** Section 33-1-102, MCA, is amended to read:

15 "33-1-102. Compliance required -- exceptions -- health
16 service corporations -- health maintenance organizations --
17 governmental insurance programs. (1) No A person ~~shall~~ may
18 not transact a business of insurance in Montana or relative
19 to a subject resident, located, or to be performed in
20 Montana without complying with the applicable provisions of
21 this code.

22 (2) ~~No--provision~~ The provisions of this code ~~shall~~ do
23 not apply with respect to:

24 (a) domestic farm mutual insurers as identified in
25 chapter 4, except as stated in chapter 4;

1 (b) domestic benevolent associations as identified in
2 chapter 6, except as stated in chapter 6; and

3 (c) fraternal benefit societies, except as stated in
4 chapter 7.

5 (3) This code applies to health service corporations as
6 prescribed in 33-30-102. The existence of such the
7 corporations is governed by Title 35, chapter 2, and related
8 sections of the Montana Code Annotated.

9 (4) This code does not apply to health maintenance
10 organizations to the extent that the existence and
11 operations of such those organizations are authorized by
12 chapter 31.

13 (5) This Except as provided in [section 1], this code
14 does not apply to workers' compensation insurance programs
15 provided for in Title 39, chapter 71, parts 21 and 23, and
16 related sections.

17 (6) This code does not apply to the state employee
18 group insurance program established in Title 2, chapter 18,
19 part 8.

20 (7) This code does not apply to insurance funded
21 through the state self-insurance reserve fund provided for
22 in 2-9-202.

23 (8) (a) This code does not apply to any arrangement,
24 plan, or interlocal agreement between political subdivisions
25 of this state whereby in which the political subdivisions

1 undertake to separately or jointly indemnify one another by
2 way of a pooling, joint retention, deductible, or
3 self-insurance plan.

4 (b) This code does not apply to any arrangement, plan,
5 or interlocal agreement between political subdivisions of
6 this state or any arrangement, plan, or program of a single
7 political subdivision of this state whereby in which the
8 political subdivision provides to its officers, elected
9 officials, or employees disability insurance or life
10 insurance through a self-funded program."

11 NEW SECTION. **Section 3.** Codification instruction.

12 {Section 1} is intended to be codified as an integral part
13 of Title 33, chapter 22, part 1, and the provisions of Title
14 33, chapter 22, part 1, apply to [section 1].

-End-

REP. ELLIS asked for any comment on illness. REP. HARPER said an illness would have to be so severe that it would be obvious.

REP. TUNBY asked if this would address raising foxes in cages? REP. HARPER replied he tried to pass a fur farm bill last session that was supported by every fur farm in the State, and the bill died in the Senate. This bill does not address that concern. Those practices are regulated by the Department of Livestock, and in all those cases those are commonly accepted practices.

Closing by Sponsor:

REP. HARPER thanked the committee and asked for their support.

HEARING ON HOUSE BILL 719

Presentation and Opening Statement by Sponsor:

REP. DAVE BROWN, House District 72, Butte, presented HB 719. It is an Act restricting persons who may conduct a physical examination or review of chiropractic records on behalf of an insurer; and amending Section 33-1-102, MCA. HB 719 clarifies who may perform independent medical examinations when chiropractic patients are involved. This bill ensures that an independent medical examination either by studying a patient's charts and records or by an actual physical examination is to be performed by a chiropractor. The chiropractor must be licensed by and practice in the State of Montana. The treating physician never performs this function. In the course of treatment of a patient, the insurer may request an examination be done by a physician not in charge of the treatment of the patient. This exam is done to determine if the current course of treatment is best. Blue Cross/Blue Shield uses a chiropractic consultant, as does Workers Comp in many cases. Sometimes exams are performed by medical doctors and this can be troublesome.

There is a long-standing discriminatory attitude on the part of any medical doctor toward chiropractors. Not only do MDs not know about chiropractic care, they actively try to steer patients to MDs who will probably perform surgery or other expensive care that may not be needed. This bill says if the patient has purchased insurance that covers chiropractic care, and if an independent medical examination becomes necessary, the exam must be performed by a chiropractor practicing in Montana. Last session legislation was passed allowing chiropractors to perform impairment evaluations in Workers Compensation cases if the treating physician is a chiropractor. Montana's chiropractors took that responsibility very seriously and their Board passed rules requiring a minimum of 36 hours of intensive course study in impairment rating and completion of a day-long test. About 30 chiropractors have been through this process and some Workers Compensation employees have said chiropractors are some of the best impairment evaluators in the state. The marketplace demands chiropractic care be a covered service and if employers who

insure themselves are paying for that coverage, those insured should be treated fairly on medical evaluations.

Proponents' Testimony:

Dr. Lee Hudson, President, Montana Chiropractic Association, and also is the Chiropractic Consultant for Blue Cross/Blue Shield and Medicare Part B in the State of Montana. Dr. Hudson stated that an independent medical examination is either an actual physical examination of the patient, or review of the doctor's records to determine if the course of care is appropriate and to determine if there is further necessity for care. The importance of a chiropractor doing the exam for a chiropractic patient is chiropractic is different than medicine in how it is practiced, techniques used, and terminology used. It is important for someone knowledgeable to handle that type of examination. This does not affect entry level review by insurers.

Gary Blom, Chiropractor, Helena, performs independent chiropractic examinations for an insurance company and a private medical review corporation. People realize the importance of having independent reviews for their respective health care provider. Dr. Blom supported HB 719 because he believes to make an impartial and credible determination regarding chiropractic care, a licensed Montana chiropractor should make the review. The bill will prevent out-of-state chiropractors or other health care providers, sometimes referred to as hired guns for insurers, from making such reviews.

Mike Pardis, Chiropractor, Helena, said currently independent clinical reviews of patients are sent out of state. Corporations review a file by looking at the chart notes. Dr. Pardis said a chiropractic patient might also be sent to a local doctor.

Roger Combs, Chiropractic Physician, Libby, is past President of the Montana Board of Chiropractors and presently represents Montana and 9 other western states as a Director on the National Board of Chiropractic Examiners. Dr. Combs presented written testimony in support of HB 719. EXHIBIT 9

Dr. Duane Borstrain, Chiropractor, Red Lodge, since 1981, has been a member of the Board of Chiropractors. The whole issue surrounding HB 719 is one of fairness to the health care consumers of Montana. Health care consumers, and often their employers, are investing good money in health care insurance contracts that say chiropractic services are covered. More Montanans are selecting chiropractors to help with needs when they are injured. Dr. Borstrain urged passage of HB 719, so the health care consumer, the chiropractor and the insurance company will know it is fair.

Bonnie Tippy, Montana Chiropractic Association, passed out material regarding an anti-trust lawsuit which has gone as far as the Supreme Court as of last November. It is called the Wilkes

Case, and is an anti-trust suit launched against the American Medical Association and several other medical associations in 1977. That court found in favor of the chiropractors in 1987. In February 1990, a Federal Appellate Court upheld the decision and in November 1990, the Supreme Court refused to hear the case. EXHIBIT 10 One of the final bastions of prejudice against chiropractic is in insurance.

Opponents' Testimony:

Pat Sweeney, State Fund, opposed this bill saying it would deny a Workers Compensation insurer the right to have a physical examination or a review of patients records by a medical doctor if the patient is being seen by a chiropractor. Mr. Sweeney presented written testimony. EXHIBIT 11.

George Wood, Executive Secretary of Montana Self Insurers Association, does not represent insurers. He represents employers who self-insure for their workers compensation and make arrangements for payment of claims. The heart of this bill is in Section 1, lines 1 through 17. It provides that once a chiropractor treats, then the patient is in the chiropractic review. Montana Self Insurers use chiropractic examinations, but also use medical examiners. The desire is to see the patient gets the best medical care and returns to work at the earliest possible date. The limitation on examinations particularly affects the field of workers compensation because the bills are paid by the insurer, but he does not choose the original physician. The injured worker has the right to go to a chiropractor. The employer should have the option to continue good claims practices to determine the claimant's ability to get back to work at the earliest possible date. The consulting actuary to the select committee on workers compensation recommended to the State Fund they have more aggressive claims management. This bill works against that recommendation. The amendment suggested by Mr. Sweeney is the only recourse to have sound claims management. Mr. Wood recommends this bill be either tabled, do not pass, or if passed, the amendment be added.

Tom Hopgood, Health Insurance Association of America, said the Association counsel reviewed the legislation and opposes it. The health insurance industry is undergoing significant pressure. Statistics indicate that one-third to one-half of medical treatment is unnecessary. There are instances when a person goes to a medical provider, he is asked do you have insurance and how much insurance do you have? The treatment sometimes runs out when the insurance does. Utilization review is estimated by Blue Cross/Blue Shield to save their insurers up to \$8 million a year. The bill does not take into consideration the manner in which insurance companies that do business nationwide conduct utilization review. Most companies have a minuscule amount of business conducted in Montana. They do not, as a rule, use Montana licensed chiropractors to conduct utilization review. Chiropractic services must be covered under insurance policies.

This bill says when those services are reviewed, a Montana licensed chiropractor must be used. The result will be less competition in the field of health insurance because certain health insurers are going to quit doing business in Montana. That is not good for the consumer. Insurance providers try to keep costs down. This bill does not try to keep costs down. This is not a consumer bill. He stated this is a chiropractors' relief bill.

Jacqueline Terrell, American Insurance Association, said the American Insurance Association is a trade association comprising property and casualty insurers who underwrite 54% of the market share of workers compensation in Montana that is written by private insurers. This bill has been characterized as a battle between insurance companies and chiropractors. Insurance companies represent the employers in workers compensation, and those are the interests insurance companies are attempting to protect. The spiralling cost of workers compensation insurance is a difficult problem for the State of Montana. The American Insurance Association opposes this bill for reasons laid out by the State Fund and by Mr. Wood on behalf of the Self Insurers. The amendment proposed by the State Fund would be supported. That has worked well in Oregon and there is similar legislation in Hawaii that has worked well in keeping down the cost of workers compensation insurance. The portion of this bill requiring the utilization review be performed by a licensed Montana chiropractor would still be opposed. Companies that write on a national basis for a market that represents only three-tenths of one percent of the nationwide market will not be able to cost effectively review chiropractic treatment plans by a Montana licensed chiropractor. That will increase the cost of workers compensation insurance which will directly increase the cost to the employer. Ms. Terrell urges do not pass, or table the bill. If the bill is passed out of committee, she urges the amendment suggested by State Fund and Self Insurers be passed.

Ron Ashebraner, State Farm Insurance Companies, said State Farm is a mutual company and insures approximately 30% of the vehicles in Montana. Mr. Ashebraner related details of a claim where an individual chose to be treated by a chiropractor. State Farm did a peer review, which is done on a national basis. The chiropractor differed with two orthopedic surgeons and another local chiropractor who agreed the treatment was reasonable and necessary. Suit was filed because State Farm would not settle the claim. The case was tried and the jury did not feel the chiropractor could support his treatment, could not support the injury, could not support the reasonable and necessary care. This was detected as a result of out-of-state review. The result is the policyholders are not expending the money on a frivolous claim brought as a result of unnecessary treatment. If this bill were to pass, State Farm would like an amendment that would limit chiropractic treatment to a period of three months or some such time, because it is obvious that treatment does get excessive.

Oliver Goe, Attorney, Montana Municipal Insurance Authority, said currently over 90 cities and towns throughout Montana are involved in the self insurance pool for purposes of providing workers compensation coverage. The Montana Municipal Insurance Authority is concerned about various aspects of the bill. Under the Montana Workers Compensation Act, if an injured worker chooses a chiropractor for the primary care physician, that care is paid for. Generally an orthopedic surgeon or a general physician is also involved. This bill as drafted would prohibit the insurer from retaining a physician to evaluate the condition of the patient being also treated by a chiropractor. A major concern in the area of chiropractic is multiple visits, not 10, 11 or 12, but 30, 40, or 50 visits. When that ongoing care is required, perhaps there is something more wrong than what can be treated chiropractically. In those situations the individual is referred to an orthopedic surgeon and in more complex cases to a multi-disciplinary panel to evaluate the individual's condition. The insurer needs the ability in aggressive claims management to make sure things do not get out of hand, to have the injured worker evaluated by health care professionals. In many instances, the health care professionals are instrumental in insuring there is an early return to work and minimizing the cost of providing workers compensation care.

Steve Brown, Blue Cross/Blue Shield, said Blue Cross/Blue Shield uses a chiropractor to review chiropractic claims in its managed care program. There is no problem with that. The right must be preserved to have someone other than a chiropractor look at claims in complex and controversial situations. This bill would preclude an MD from taking a look at chiropractic claims. Mr. Brown feels that is bad for the consumers of Montana. Blue Cross/Blue Shield paid \$8.6 million from its managed care program last year. Managed care is an important aspect of controlling or reducing the skyrocketing escalation of insurance costs. This bill sets a bad precedent. Blue Cross/Blue Shield has acted responsibly and want the ability to have an MD review a chiropractic claim.

Jacqueline Terrell, said Gene Phillips of American Alliance Insurance could not be at this hearing, and asked Ms. Terrell enter his opposition to this bill.

Questions From Committee Members:

REP. LARSON asked about compromise language between the insurance company concerns and the chiropractors. REP. DAVE BROWN said this bill does not prevent any medical people from being brought in by the insurance company. It says if a chiropractor's claim is reviewed, a chiropractor should be used. In terms of cost, chiropractic charges are less than medical doctor charges. The amendment from the Department is a punitive measure. There should be 30 days placed on doctors, along with chiropractors.

REP. SHEILA RICE asked Ron Ashebraner about the case he cited, would peer review by a chiropractor have uncovered, or did it uncover, the problem with improper care? Mr. Ashebraner said yes, it did, relative to cost. The average first visit to a chiropractic office is many times \$250 to \$400. In-state peer review was used, and that chiropractor testified at the trial. REP. SHEILA RICE is concerned this bill is narrowly written in terms of mandating in-state review. Why is in-state sometimes used, and out-of-state sometimes? Mr. Ashebraner said when you talk about peer review, it is review by an individual with a corporation. The individual used in the example is a chiropractor, and is a teacher in a chiropractic college. During a utilization review, he is able to take reports from chiropractors and tell what a normal, customary pattern should be.

REP. SHEILA RICE asked Dr. Hudson if he did some reviews? She said her experience sitting on a Board of Trustees of a hospital has led her to believe that sometimes it is very difficult for physicians or other practitioners to do appropriate review of one of their colleagues. Her concern about limiting this to in-state review is that in-state care givers know each other. Would it be difficult to review a case that has some grey areas? Would it be better sometimes if it were a totally objective out-of-state reviewer? Dr. Hudson said he does reviews. He does not necessarily feel it would be better to have out-of-state reviewers. Anyone doing reviews has to understand there may be disagreements between themselves and people they know who are their peers. He has not seen any problems on a personal basis.

REP. PAVLOVICH asked Mr. Hopgood about his statement that if this bill passes, insurance companies would leave the state? Mr. Hopgood said chiropractic services must be included in insurance policies. In addition to that, when a utilization review is performed, a Montana licensed chiropractor must perform the review for Montana chiropractic services. The percentage of the national insurance market that is in Montana is very small. For that tiny market, a Montana chiropractor would need to be hired to conduct the utilization review. The company has a reviewing staff at their headquarters or at a branch office. A similar bill passed in Minnesota and it has been a disaster for insurance companies. There is a great hesitancy on the part of insurance companies to alter the way they conduct business to satisfy a requirement that comes from a state that has less than 1% of the total market.

REP. ELLIS asked if there is any state besides Minnesota with this kind of law? Mr. Hopgood is not aware of any.

REP. KNOX asked Ms. Terrell to expand on her statement about a patient treated both by a chiropractor and an MD, that the review could only be conducted by a chiropractor. She said they oppose that because it increases the cost of the insurance and diminishes the ability of the company to adequately review a

claim for its validity. It is a service to all consumers to keep the cost of that insurance down. One way that happens is by eliminating the invalid claim. It can be done by having a physician who is looking at the overall condition of the patient make an evaluation.

REP. CROMLEY asked Dr. Gary Blom if he did chiropractic review exams? Are independent exams sometimes done when the patient is being treated by a physician? Dr. Blom said he does the exams, but does not do exams when the patient is being treated by a physician. He is contracted through a corporation based in Spokane with offices in Billings. Problems and complaints of chiropractors are resolved. He does not enjoy doing it, but chiropractors have to monitor their own profession.

REP. LARSON asked if insurance interests would have objection to adding orthopedic surgeons to the review process that the chiropractors are now requesting. George Wood does not think there would be the limitation of who can review. The objection Mr. Wood has to the bill is that it limits ability to function.

REP. LARSON asked if Dr. Hudson thinks 50 repeated visits to a chiropractor deserves review by an insurance company? Dr. Hudson said yes it should be reviewed for that number of visits. However, chiropractors are trained in their colleges to determine when a condition might be better handled medically. As part of this bill, those chiropractic reviews would make a determination if the person should be sent to a medical doctor.

REP. ELLIS asked if chiropractors treat ruptured disc problems? Dr. Gary Blom replied yes. REP. ELLIS said he has had ruptured disc problems and has seen several orthopedic doctors and has not gone to a chiropractor. Does Mr. Hopgood normally look into orthopedic procedures with chiropractors? Mr. Hopgood said it was up to the consumer what kind of medical attention they desire. REP. ELLIS said the thrust of this bill is to make sure that a chiropractor reviews a chiropractic procedure and that chiropractor resides in Montana. Is that what the bill is about? Mr. Hopgood said that is the way he understands the bill. REP. ELLIS has trouble with the Montana part, but does not have a problem with the chiropractor part, if the insurance company has the option of having another branch of medicine review the case. Mr. Hopgood said that was an option for the insurance company. If the case was reviewed and another type of treatment was more appropriate, that recommendation could be made.

REP. ELLIS asked Bonnie Tippy to respond to the same question. Bonnie Tippy said to her knowledge, never is a chiropractor asked to do a review for a surgeon. Never does a chiropractor review any charts or records or do physical examination of an MD's patient.

Closing by Sponsor:

Rep. DAVE BROWN said in-state is an important part of the bill so the people who do the review know the practice and law in the State of Montana. There is no preventive language in the bill to keep the insurance company from asking an MD to review the chiropractor's records. It does say the chiropractor should review another chiropractor's work. A pediatrician would not be asked to review a surgeon's work. This bill is about fairness. Mr. Sweeney's proposed limit of 30 days limits chiropractic benefits to the consumer. Services of chiropractors cost less than services of MDs. This bill cannot be about increased cost to insurance companies. The bill does not affect an insurance company's ability to do utilization reviews. Use of chiropractic, where appropriate, helps keep costs down. The amendment limits consumer access to services. REP. BROWN asked the committee to pass the legislation as drafted.

HEARING ON HOUSE BILL 932Presentation and Opening Statement by Sponsor:

REP. ROGER DeBRUYCKER, HD 13, Floweree, presented HB 932. It is an act to allow combination video gambling machines; and amending Section 23-5-603, MCA.

Proponents' Testimony:

Gary Bennett, lobbyist for Montana Coin Machine Operators Association, said this bill is not an expansion of gambling nor is it intended to be. It allows for touch screen technology developed in Bozeman that is menu driven. This bill allows use of a terminal with both video poker and video keno, and the player can select which game he wants to play.

Opponents' testimony:

Larry Akey, Gaming Industry Association, opposes HB 932. Either he is confused about this bill or it is a bad bill. This is a manufacturer's bill. There is no demand on the part of players or operators for these kinds of player select machines. Two of their manufacturers thought they wanted this bill. There are a number of areas you will want your staff counsel to look at. Nowhere do we define what a combination machine is.

Mark Staples, Montana Tavern Association, went to most of the tavern stations around Montana and asked for their position. Even the people who have the video machines oppose this bill. They feel it is a one-company bill. It makes all those machines obsolescent if they can't have a retrofit put on them. There is no retrofit so operators face buying these new machines or having a retromachine.

REP. KNOX opposes the bill because in most taverns where there are fewer machines, say 5, this has triple number of games. He cannot support the bill. It is an expansion of gambling.

REP. ELLIS thought it wouldn't be an expansion as long as they are paying more taxes. They can put in more machines. The manufacturer only makes agreements and doesn't sell the machines? Mr. Bennett said they have had a policy of selling to distributors only and that is the problem, but have limited production capacity to a customer who pays if there is an increase in production.

REP. PAVLOVICH said you have been in business for five years and you only sell to the distributor. He can never buy that machine? Mr. Bennett said that is because of the existing machines in the country. They sell to a distributor in the Butte area. They have no agreement with that distributor to sell a machine. REP. PAVLOVICH wanted to know why he can't buy a machine.

Motion/Vote: REP. PAVLOVICH moved HB 932 AS AMENDED BE TABLED. Motion carried with REPS. LARSON, CROMLEY, ELLIS, WALLIN voting NO.

EXECUTIVE ACTION ON HB 690

Motion/Vote: REP. CROMLEY moved HB 690 DO PASS. He moved the amendment EXHIBIT 14 which was unanimously adopted. Motion HB 690 DO PASS AS AMENDED carried unanimously.

EXECUTIVE ACTION ON HB 854

Motion: REP. PAVLOVICH moved HB 854 DO PASS.

Motion: REP. KNOX moved amendment to HB 854.

Discussion:

REP. KNOX thought Page 8, line 1 should be amended to "quarterly" or "semi-annually". REP. CROMLEY resisted the amendment primarily because it deals with the point in time when the benefits are being paid. He believes it is a benefit payment status. Payments are being paid monthly.

REP. SONNY HANSON said on Page 7, line 23, and Page 8, lines 1 and 4, it should be changed in both places. REP. KILPATRICK said it would be a quarterly report paid by the month.

Vote: REP. PAVLOVICH moved HB 854 AS AMENDED DO PASS. It carried unanimously. REP. STELLA JEAN HANSEN was absent.

EXECUTIVE ACTION ON HB 719

Motion: REP. PAVLOVICH MOVED HB 719 DO PASS. REP. SHEILA RICE moved to amend HB 719, on page 2, line 25, before current Section 2, add Subsection (2). EXHIBIT 15.

Discussion:

REP. SHEILA RICE explained her amendments. The first amendment is presented by the sponsor to answer the committee concern that no other medical review was possible. On Page 2, line 25, before current Section 2, add Subsection (2) under Section 1, "Nothing in this section prevents a health care insurer from requesting other medical review of a patient's condition or treatment."

REP. CROMLEY commented that the first Section says they can't do a medical review and the Second section says they can.

REP. RICE said REP. DAVE BROWN agreed on the wording and felt it covered the issue of never being able to bring in a medical doctor.

REP. BACHINI said the sponsor could address problems in the Senate, too.

REP. CROMLEY thinks the amendment does away with the purpose of the bill.

Motion/Vote: REP. CROMLEY MOVED HB 719 BE TABLED. Motion failed 5 to 13 by roll call vote. EXHIBIT 16.

Vote: Motion to amend HB 719 carried with REPS. BARNETT and STEPPLER voting No.

Motion: REP. SHEILA RICE moved HB 719 be amended, on Page 2, line 17, place a "." after "chiropractic" and strike everything from there down to the end of line 24.

Discussion:

REP. SHEILA RICE said this was her own amendment. Her concern was that the chiropractic review is done by very qualified people outside the State of Montana, and to limit it to Montana does not make sense.

Vote: Motion to amend HB 719 failed 9 to 9 with REPS. McCULLOCH, SCOTT, PAVLOVICH, STEPPLER, DOWELL, BACHINI, WALLIN, STELLA JEAN HANSEN, KILPATRICK voting No.

REP. KILPATRICK informed the Committee that REP. STELLA JEAN HANSEN had left the following proxy with him: "You have my permission to vote on bills and amendments for me in my absence. Signed Rep. Stella Jean Hansen".

Motion: REP. KNOX moved HB 719 be amended as proposed by Pat Sweeney, State Fund, to limit treatment to 30 days of first visit or 12 visits, whichever occurs first.

Discussion:

Paul Verdon said language would have to be put in a new section in the workers compensation section. It will be another section of the bill.

REP. SCOTT spoke against the amendment because one profession should not be limited to how many days it takes to treat a patient. The number of treatments might be limited, not the number of days.

REP. ELLIS asked if there is a time limit when a review can be started. Can a review be started in 12 visits or 30 days anyway? George Wood answered no. Currently, it is as long as treatment is needed or until the patient or the insurer decides other treatment is necessary. REP. ELLIS asked when can an insurer make the decision that it should be looked into? Mr. Wood said anytime.

REP. BACHINI asked if there is a guideline the insurers use? Mr. Wood said the guideline from an adjuster's perspective is after 30 days you begin to look for decreasing frequency. If the frequency stays the same or goes up, you look for a problem. REP. BACHINI asked if that goes beyond 30 days, you look at the first 30 days, then how many days beyond 30 will a review result? Mr. Wood said if the frequency is decreasing, or if the injured worker is working, it may go on for four or five months.

REP. LARSON opposed the amendment. He stated the intent of the bill is to determine who can review a chiropractor's treatment of a patient. The amendment tries to limit the treatment of the patient by a chiropractor. That is not the intent of this bill.

Vote: REP. KNOX'S motion to amend failed.

Motion: REP. CROMLEY moved to amend HB 719 on Page 1, line 9, right after the beginning of (1) "Prior to 60 days after the initial treatment or prior to the twelfth chiropractic treatment, whichever occurs sooner, a health care insurer. . ."

Discussion:

REP. CROMLEY said maybe 60 days is not enough either, but that does give some flexibility if there is a situation where the person is going to a chiropractor for a long period of time without much benefit.

REP. SCOTT spoke against the amendment. The number of visits is being limited. That is up to the industry to determine what is abusive.

REP. McCULLOCH asked what the purpose of the amendment was? REP. CROMLEY said it is for situations that go on for a long time. At some point, someone from the outside ought to be able to review.

This does not force anybody to review. He said there was confusion whether the amendment defeats the purpose of the bill. If the bill is going to be passed, there should be a point at which it is clear you can have a review.

REP. BACHINI asked Mr. Wood if the proposed Cromley amendment passed, could you still go to review before that period of time? Mr. Wood said it states you give them 60 days without review or 12 treatments without review, then after that we can move. At the present time, we can move and have examinations.

Motion/Vote: REP. BENEDICT MOVED TO TABLE HB 719 AS AMENDED.
Motion failed 8 to 10.

Vote: REP. CROMLEY'S motion to amend HB 719 on Page 1, line 9 failed 7 to 11.

Motion/Vote: REP. PAVLOVICH MADE A SUBSTITUTE MOTION that HB 719 AS AMENDED DO PASS. Motion carried with REPS. KNOX, BENEDICT, CROMLEY and SONNY HANSON voting No.

EXECUTIVE ACTION ON HB 703

Motion: REP. PAVLOVICH MOVED HB 703 DO PASS.
REP. PAVLOVICH moved HB 703 be amended.

Discussion:

Steve Huntington said the Science and Tech Alliance asked for some technical amendments regarding the procedures by which the bill is drafted. Mr. Huntington explained the proposed amendments. EXHIBIT 17.

Paul Verdon said the amendments as submitted were not technically appropriate, but that he would correct them for insertion into the bill.

REP. BENEDICT asked Carl Russell if he agreed with the amendments. Mr. Russell said his concerns were met.

REP. ELLIS asked if all the amendments had been discussed with REP. BRADLEY. Steve Huntington said he spoke with REP. BRADLEY and she was in agreement with the amendments. This allows Science and Tech to put between \$500,000 and \$1 million in an investment company which then may reinvest the money in other enterprises to whatever level that company decides. HB 703 authorizes Science and Tech, which currently has a \$7.5 million pool of capital allowed for their management, to use \$2 million of that \$7.5 million to consider making investments in other investment companies. The total amount they would ever be able to put in other investment companies is \$2 million.

Vote: Motion that HB 703 be amended passed unanimously.

HOUSE STANDING COMMITTEE REPORT

February 22, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 719 (first reading copy -- white) do pass as amended .

Signed: _____

Bob Bachini
Bob Bachini, Chairman

And, that such amendments read:

1. Page 2, line 9.

Strike: "A"

Insert: "Except as provided in subsection (2), a"

2. Page 2, line 25.

Following: line 24

Insert: "(2) Nothing in this section prevents a health care insurer from requesting other medical review of a patient's condition or treatment."

Renumber: subsequent subsection

EXHIBIT 9
DATE 2-22-91
RE 719

Exhibit #9

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE!

I AM ROGER COMBS, A PRACTICING CHIROPRACTIC PHYSICIAN
FROM LIBBY, MONTANA. I AM IMMEDIATE PAST PRESIDENT OF THE
MONTANA BOARD OF CHIROPRACTORS, AND PRESENTLY REPRESENT
MONTANA, ALONG WITH 9 OTHER WESTERN STATES AS A DIRECTOR ON
THE NATIONAL BOARD OF CHIROPRACTIC EXAMINERS.

THE MISSION STATEMENT OF BOTH PROFESSIONAL ORGANIZATIONS
IS TO PROTECT THE PUBLIC. HOUSE BILL 719 IS
NECESSARY TO PROTECT THE PEOPLE OF THE STATE OF MONTANA
FROM UNQUALIFIED FRAUDULENT OUT-OF-STATE PRACTITIONERS.

IN THE PAST 6 YEARS, WHILE SERVING ON THE BOARD OF
CHIROPRACTORS, I HAVE WITNESSED NUMEROUS COMPLAINTS AND INQUIRIES
BY CONSUMERS AND ALSO PRACTITIONERS, ABOUT THE HANDLING OF
INSURANCE CLAIMS, BASED ON THE OPINION OF A NON RESIDENT
PRACTITIONER.

PAGE 2
TESTIMONY - ROGER COMBS
HOUSE BILL 719

Exhibit # 9
2-22-91 HB 719

THE REGULATING BOARD IS POWERLESS TO TAKE ACTION
AGAINST THESE PRACTITIONERS BECAUSE THEY DO NOT HAVE MONTANA
LICENSES OR RESIDE IN THE STATE BOUNDARIES.

WE HAVE FOUND THAT MOST OF THESE PRACTITIONERS HAVE NOT
MET THE MINIMUM REQUIREMENTS FOR MONTANA LICENSURE.. I HAVE
COLLECTED A CONSIDERABLE AMOUNT OF DATA WHICH DOCUMENTS THE
PROBLEM IN MONTANA. THERE IS NOT SUFFICIENT TIME IN THIS
HEARING TO PRESENT IT TO YOU. However, I have it available
TO DISCUSS IT WITH YOU IN GREATER DETAIL AFTER THE HEARING.

IT IS ABSURD TO ARGUE THAT AN OUT-OF-STATE PRACTITIONER,
WHO HAS NOT HAD THE BENEFIT OF A HANDS ON EXAMINATION IS
QUALIFIED TO ASCERTAIN THE COMPLETE AND ACCURATE PICTURE OF
A PATIENT'S CONDITION AND MAKE RECOMMENDATIONS REGARDING HIS
OR HER PRESENT AND FUTURE HEALTH CARE NEEDS.

PAGE 3

TESTIMONY - ROGER COMBS

HOUSE BILL 719

YOU MAY ALREADY BE AWARE OF A CONSTITUENT OR FAMILY
MEMBER WHO HAS BEEN ADVERSELY AFFECTED BY THE BIASED OPINION
OF AN OUT-OF-STATE UNLICENSED PRACTITIONER EMPLOYED
BY THE INSURANCE INDUSTRY TO REVIEW CLAIMS.

A DO PASS RECOMMENDATION FROM THIS COMMITTEE ON
HOUSE BILL 719 WILL BE A POSITIVE STEP TOWARDS THE
PROTECTION OF THE HEALTH CARE OF THE PEOPLE OF MONTANA.

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE

THANK YOU FOR YOUR TIME.

House Business : Econ. Develop

EXHIBIT 10

DATE 2-22-91

HB. 719

**THE AMERICAN
MEDICAL ASSOCIATION
FOUND GUILTY OF
CONSPIRACY**

United States Court of Appeals—February 7, 1990
United States District Court—August 27, 1987

The complete opinion and summary of the
United States Court of Appeals Decision
follows:

In the
United States Court of Appeals
For the Seventh Circuit

Nos. 87-2672 & 87-2777

Dr. Chester A. Wilk, D.C.,
Dr. James W. Bryden, D.C.,
Dr. Patricia B. Arthur, D.C., and
Dr. Michael D. Pedigo, D.C.

*Plaintiffs-Appellees,
Cross-Appellants,*

v.

American Medical Association,

*Defendant-Appellant,
Cross-Appellee.*

Dr. Chester A. Wilk, D.C.,
Dr. James W. Bryden, D.C.,
Dr. Patricia B. Arthur, D.C., and
Dr. Michael B. Pedigo, D.C.,

Plaintiffs-Cross-Appellants,

v.

American Medical Association,
Joint Commission on Accreditation
of Hospitals, American College
of Physicians and American Academy
of Orthopaedic Surgeons,

Defendants-Cross-Appellees.

Appeal from the United States District Court
for the Northern District of Illinois, Eastern Division.
No. 76 C 3777--Susan Getzendanner, Judge.

Argued December 1, 1988—Decided February 7, 1990

Exhibit 10 contained a 21-page summary of Wilk v. AMA. The original is stored at the Montana Historical Society, 225 North Roberts, Helena, MT 59601. (Phone 406-444-4775)

Ruling for chiropractors in suit against AMA is upheld by appeals court

By BRENDA C. COLEMAN
Associated Press

CHICAGO — A federal appeals court has upheld a 1987 ruling that the American Medical Association (AMA) violated antitrust laws by trying to destroy the profession of chiropractic, attorneys in the case said Thursday.

The 7th U.S. Circuit Court of Appeals on Wednesday affirmed the finding of U.S. District Judge Susan Getzendanner, who permanently barred the nation's largest organization of physicians from boycotting chiropractors, who treat patients with physical manipulation focused on the spine.

"The experience of the AMA in this case should now put other medical associations, and hospitals dominated by them, on notice that chiropractors will fight for the rights of their patients," attorney George McAndrews, who represented the chiropractors, said in a statement.

Those rights include "fair treatment by tax-supported institutions, hospitals, insurance plans, HMOs and other groups that have burdened those patients with anti-competitive barriers," McAndrews said. HMOs are health maintenance organizations.

The AMA has yet to decide if it

will appeal, said association attorney Kirk Johnson.

The plaintiffs alleged AMA policy had prevented doctors from referring patients to chiropractors or taking referrals from them. The doctors were accused of preventing chiropractors from treating patients at hospitals controlled by medical doctors.

After an eight-week trial, Ms. Getzendanner issued a permanent injunction on Sept. 25, 1987, barring the AMA from "restricting, regulating or impeding" its 275,000 members or the hospitals where they work from associating with chiropractors.

The injunction came four weeks after she found the Chicago-based AMA had engaged in a conspiracy "to contain and eliminate the chiropractic profession."

A three-judge appellate panel, which heard arguments in the case in December, ruled unanimously that Ms. Getzendanner had reached a "reasonable" decision in granting the injunction.

The lawsuit, filed in 1977 by four chiropractors in different states, didn't seek monetary damages but challenged the refusal of medical doctors to acknowledge chiropractors' professional abilities.

BOARD OF CHIROPRACTORS
DEPARTMENT OF COMMERCE

STAN STEPHENS, GOVERNOR

ARCADE BUILDING
1111 N JACKSON

STATE OF MONTANA

(406) 444-5433

HELENA, MONTANA 59620-0407

February 20, 1991

Mr. Bob Bachini, Chairman
Business and Economic Development Committee
Montana House of Representatives
Helena, Montana

Dear Mr. Bachini;

I know of no insurance company that would settle a claim on a damaged automobile without first having one of their agents inspect the car and probably take photos to send to their district office.

Yet, the good people of the State of Montana, who are insured for chiropractic care by various companies, are subjected to a "paper review" by "out of state" and "out of profession" consultants whose first allegiance is to their employers, namely the insurance companies, and who do not have either the opportunity or the desire to examine the patient to make a competent or fair evaluation of the condition for which the patient is, or has been treated.

It makes sense, that if you drive a Ford, you seek a competent Ford dealership for services. If you drive a Cadillac or Mercedes, you don't go to a Honda repair center. For the same reason, medical doctors should review medical claims, and chiropractors should review chiropractic claims, and they should be reviewed by Montana doctors who are familiar with and understand Montana laws and protocol.

Montana chiropractors welcome review of their patients insurance claims, but we do desire that it be done in fairness, with the patients well being in mind.

As chairman of the Montana Board of Chiropractors, I am personally aware of the abuses by out of state and out of profession consultants and the hardships both in terms of finances and physical distress that those abuses result in, not to mention the ill-gained profits of the insurers.

The Montana Board of Chiropractors therefore, very humbly, requests your support for HB 719, limiting independent medical evaluations to chiropractors licensed in the state of Montana.

Sincerely yours,

Lou G. Sage, D.C.

Lou G. Sage, D.C., President
Montana Board of Chiropractors

WASHINGTON, DC -- The U.S. Supreme Court announced Nov. 26 that it would decline to review a Trial Court and a Court of Appeals finding that the American Medical Association had been guilty of a "lengthy, systematic, successful and unlawful boycott" of doctors of chiropractic and their patients.

The denial of review came after the four chiropractic plaintiffs in the Wilk et al v. AMA et al suit had argued in their opposition to the AMA's petition for a writ of certiorari that the "AMA had no justification whatsoever for its direct but private challenge to the 50 state legislatures that licensed chiropractic... Millions have suffered and continue to suffer because of the AMA's arrogant abuse of power."

The lawsuit was filed Oct. 13, 1976. During the ensuing 14 years of litigation, the AMA had attempted to justify its boycott while the chiropractors argued that the AMA knew at an early date that chiropractic was licensed, effective, desired by many millions of consumers and a competitive threat to medical physicians.

"The ACA is extremely pleased that this 14-year legal battle has ended in chiropractic's favor," said ACA Executive Vice President J. Ray Morgan. "However, the chiropractic community must be aware that it has won simply that, a legal battle. The real fight lies ahead in that the chiropractic profession must work together with the medical community for the betterment of the nation's health care."

"This makes the third time that the AMA has lost in the Supreme Court," said the plaintiffs' attorney and ACA General Counsel George P. McAndrews, Esq. "In fact, it has never won at that level. Time has been running out on the AMA's ability to bully other health care providers in the increasingly competitive health care market. The studies, from reputable medical and governmental sources, have been increasingly pointing to the fact that members of the AMA have been deprived of access to more effective health care procedures by a boycott that denied them and their patients access to the documented skills of doctors of chiropractic. The AMA has been tripped up by the very scientific studies that it demanded and which now have been used in court to confirm the finding of guilty in the antitrust case. It is certainly hoped that medical and chiropractic physicians, recognizing the scientific proof of the efficacy of chiropractic care, will now cooperate for the benefit of patients everywhere."

The chiropractors in their opposition to the AMA's request to have the Supreme Court review the case, were aided by numerous scientific studies that have found that chiropractic care is up to twice as effective as medical physician care for non-surgical, neuro-mechanical correction of problems related to the musculo skeletal system. As recently as June of 1990, a lengthy, prospective, scientific study of chiropractic care in Great Britain, when measured against corresponding medical care at 10 hospital outpatient centers, concluded that "chiropractic almost certainly confers worthwhile, long-term benefit in comparison with hospital outpatient management,"

particularly for those suffering with "chronic or severe pain."

The chiropractors argued that the study in England, combined with earlier state workmen's compensation studies in the United States for industrial accident victims, which indicated that chiropractic was twice as effective as traditional medical care in returning injured workers to their jobs, made a mockery of any argument of the AMA to have acted in "good faith."

In fact, the trial court had found that the AMA's position, in view of the existing scientific evidence, was "objectively unreasonable."

In a brief statement issued Nov. 26, AMA General Counsel Kirk B. Johnson, J.D., said the AMA is "disappointed, but not surprised" by the court's decision, explaining that the "high court only agrees to hear about 1 percent of the cases requesting a writ."

"We still believe that the lower courts erred in their decision," Johnson continued. "However, their decision did not call for the AMA to change any policies. The lower court found that AMA's policy for the past 10 years regarding professional interaction between physicians and chiropractors was lawful. The court's decision did not endorse chiropractic. No damages were awarded. Therefore, the decision will have little to no impact on patients and their physicians."

The case must now go back for implementation of the trial court's Injunction Order and for a determination of the claim of the chiropractors for more than \$14 million in legal fees and costs associated with the suit. In 1987, U.S. District Court Judge Susan Getzendanner, following an eight week trial, found the AMA guilty of violating the antitrust laws and ordered the AMA to public her Injunction Order to all 280,000 members of the AMA; to print, and permanently index, her Injunction Order in the Journal of the American Medical Association; to amend all rules of the association to allow its members to fully cooperate with chiropractic physicians; and to pay reasonable attorneys fees and costs to the plaintiff-chiropractors.

Further proceedings in the case will take place before U.S. District Judge John A. Nordberg in Chicago.

#

[November 28, 1990: D]

HOUSE BILL 719, INTRODUCED BY REPRESENTATIVE DAVE BROWN: A BILL FOR AN ACT ENTITLED: "AN ACT RESTRICTING PERSONS WHO MAY CONDUCT A PHYSICAL EXAMINATION OR REVIEW OF CHIROPRACTIC RECORDS ON BEHALF OF AN INSURER;

Question: What does HB 719 do? ”

Answer: HB 719 insures that when an independent medical examination is done either by study of a physician's records or by an actual physical examination of the patient, that if that individual is a chiropractic patient, the independent examiner will be a chiropractor. In addition, that chiropractor must be licensed by and practicing in the state of Montana. Remember, the treating physician will never perform this function.

Question: What is an independent medical evaluation? ↗

Answer: In the course of treatment of a patient, from time-to-time an insurer will request that an exam should be done by a physician not in charge of the current treatment of the patient. This exam is done in order to determine if the current course of treatment is the best course, if the patient is improving, and if anything needs to be changed. These exams can be done through a paper review of physicians' chart notes, an actual physical examination of the patient, and oftentimes both.

Question: Don't chiropractors perform IME's on chiropractic patients now?

Answer: It is the general practice that IME's of chiropractic patients are performed by chiropractors, but there are some insurers who do not follow this practice. We are unable to find the reasons for this. In some instances, the examination is actually done by someone located out-of-state, as far away as Peoria, Illinois. There are cases where these reviews will be performed by a nurse or a medical doctor, individuals who have little, if any, knowledge of chiropractic care.

Question: Why is it a problem for an out-of-state chiropractor to do these evaluations? ☎

Answer: First and foremost, an out-of-state physician cannot perform a physical examination of a patient. It is very difficult in many cases to make a determination regarding patient care and future treatment needs without doing a physical examination. Also, out-of-state people have very little, if any, knowledge regarding Montana law or protocols. All they can do is a paper review.

THE MONTANA CHIROPRACTIC ASSOCIATION

Question: Are these people full-time employees of insurance companies? Exhibit # 10
2-22-91 HB 719

Answer: Many times they are, and we believe that this creates a definite conflict of interest. Are they evaluating patient records in order to determine what is best for the patient or what is best for the insurance company? HB 719 solves many of these problems.

Question: Do chiropractors perform IMEs on patients of medical doctors?

Answer: Absolutely not, and if it ever happened, the M.D.s would be incensed. What is good for one type of provider should be good for the next. Montana chiropractors are primary health care providers, with extensive training and skills in diagnosis and treatment. These diagnostic skills help them to know when to refer a patient to another type of provider.

Question: Didn't a bill similar to this pass last session. ↗

Answer: Yes, last session a bill was passed which required that, in worker's compensation cases, if the treating physician is a chiropractor, then the impairment evaluation can be done by a chiropractor. The bill, at our request, also required that in order to do an impairment evaluation, chiropractors must be certified as evaluators by the state board. The rules implemented require a minimum of 36 hours of education followed by a day-long test on impairment evaluation. The Doctors of Chiropractic in Montana have asked for, and received, a tougher criteria for doing these evaluations than medical doctors, and many workers compensation employees will say that they are some of the best evaluators in the state because of it.

In a nutshell: ✓

HB 719 is a fair bill. It mirrors legislation which has passed in several other states, including Minnesota just last year. We believe that insurers should be willing to deal in good faith with the people paying the bill... health insurance consumers. Those consumers, should they choose to use a chiropractor for their health care, deserve to have their reviews done by a chiropractor. There is still a great deal of prejudice against D.C.s by the traditional medical community, and patients of chiropractic should not also be subjected to this prejudice. This is legislation which, if argued on its merits only, should pass easily. Please do not allow insurers to kill it by quiet assassination by making unfair and erroneous comments about just what this bill does and about chiropractic care in general.

BONNIE TIPPY-EXECUTIVE DIRECTOR AND LOBBYIST

MARGARET RICHARDSON-ASSOCIATION COORDINATOR AND LOBBYIST

49ers put game in chiropractors' hands

NEW ORLEANS — Chiropractor Nicholas J. Athens stripped the megahyped Super Bowl to its bare bones.

Athens, whose practice is in San Carlos, Calif., says 35 of the 47 49ers came to him and associate Jody L. Serra of Lebanon, N.J., for treatment Saturday night in the Hilton Hotel.

Others visited him Sunday morning, just hours before the Super Bowl.

"I'm like a body mechanic," Athens said. "When something feels good to their bodies, they stick with it."

Athens is paid by the players, not the 49ers. He said trainers and team physicians still don't embrace his methods. "They are set in their ways and may never change," he says.

He began working with Roger Craig in 1982.

"He was seven years ahead of his time. He stood up to the controversy," said Athens. "He wanted drug-free health care, and he hasn't missed a game in eight years."

Athens says "one by one" the 49ers have started to come to him. Jerry Rice and Joe Montana are among his patients.

The chiropractic game plan is to keep the spine balanced. "We look at spine as the circuit breaker to the body," Athens said.

Players like Athens' pregame treatment enough that Serra comes to their hotel when they play road games. He hopes someday the team will employ him as its chiropractor.

— Kevin Allen

HB 719
Written Testimony of
Patrick J. Sweeney
President, SCMF

Page 11
Date 2-22-91
No. 719

This bill would to deny a workers' compensation insurer the right to have a physical examination of a patient or review of the patient's records by a medical doctor if the patient is being seen by a chiropractor, when the insurer is attempting to determine whether or not further chiropractic care of a patient or whether certain chiropractic services should be allowed.

The bill only allows a chiropractor to determine whether or not chiropractor services should be covered or continued.

Problems with this bill are as follows:

1. This bill interferes with an insurance company adjuster's ability to handle a claim which is in the workers' and the employer's best interest. Typically a medical review of a chiropractor's treatment is only requested when treatment has gone on for a prolonged period of time with no or little results or certain services are questioned. At that time a claims adjuster may question whether or not the claimant has a condition which should be treated instead by a medical physician or whether or not continued chiropractic care is warranted. This bill would potentially injure a claimant in that they may not realize that additional medical care is warranted, ~~as noted by the following~~

~~_____~~ X

In addition it is not cost effective for an employer's compensation policy to pay for continued chiropractic care if it is unwarranted or unneeded.

2. The State Fund has attempted to work with the chiropractors to arrive at guidelines for chiropractic care in Montana, however, at this point the parties have not been able to reach any agreements on guidelines for chiropractic care. The State Fund is interested in working out these guidelines for chiropractic care with the chiropractors in Montana in that it would give both chiropractors and insurance adjusters some parameters on what treatment is acceptable and what treatment is not acceptable, ~~as~~ ^{as} ~~with~~ as the duration of such treatment.

However, the State Fund will consider supporting this bill if the committee would add an amendment to HB 719. An amendment would limit chiropractic care for a period of 30 days from the date of the first visit on the claim or for 12 visits, whichever first occurs. We feel this amendment would be reasonable and not without precedent in that it is based upon a statute recently passed in Oregon for their Workers' Compensation Act. By limiting treatment times, this also limits any need for a claims adjuster to be concerned as to whether a claimant's condition warrants medical treatment vs. chiropractic treatment or whether or not treatment has gone on for an unwarranted period of time.

EXHIBIT 11
DATE 2-22-91
HB 719

Exhibit #11

HB 719
(Introduced)

1. Page 5.

Following: line 10

Insert: "NEW SECTION, Section 3. 39-71-704. Payment of medical, hospital, and related services -- fee schedules and hospital rates. (1) In addition to the compensation provided by this chapter and as an additional benefit separate and apart from compensation, the following must be furnished:

(a) After the happening of the injury, the insurer shall furnish, without limitation as to length of time or dollar amount, reasonable services by a physician or surgeon, reasonable hospital services and medicines when needed, and such other treatment as may be approved by the department for the injuries sustained. ~~20~~

However, treatment by a licensed chiropractor is limited to a period of 30 days from the date of first visit on the injury or for 12 visits, whichever occurs first.

(b) The insurer shall replace or repair prescription eyeglasses, prescription contact lenses, prescription hearing aids, and dentures that are damaged or lost as a result of an injury, as defined in 39-71-119, arising out of and in the course of employment.

(2) A relative value fee schedule for medical, chiropractic and paramedical services provided for in this chapter, excluding hospital services, must be established annually by the workers' compensation department and become effective in January of each year. The maximum fee schedule must be adopted as a relative value fee schedule of medical, chiropractic, and paramedical services, with unit values to indicate the relative relationship within each grouping of specialties. Medical fees must be based on the median fees as billed to the state compensation insurance fund during the year preceding the adoption of the schedule. The state fund shall report fees billed in the form and at the times required by the department. The department shall adopt rules establishing relative unit values, groups of specialties, the procedures insurers must use to pay for services under the schedule, and the method of determining the median of billed medical fees. These rules must be modeled on the 1974 revision of the 1969 California Relative Value Studies.

(3) Beginning January 1, 1988, the division shall establish rates for hospital services necessary for the treatment of injured workers. Approved rates must be in effect for a period of 12 months from the date of approval. The division may coordinate this rate-setting function with other public agencies that have similar responsibility.

(4) Notwithstanding subsection (2), beginning January 1, 1988, and ending January 1, 1990, the maximum fees payable by insurers must be limited to the relative value fee schedule established in January 1987. Notwithstanding subsection (3), the hospital rates payable by insurers must be limited to those set in January 1988, until December 31, 1989.

Amendments to House Bill No. 719
First Reading Copy

For the Committee on Business and Economic Development

Prepared by Paul Verdon
February 22, 1991

1. Page 2, line 9.

Strike: "A"

Insert: "Except as provided in subsection (2), a"

2. Page 2, line 25.

Following: line 24

Insert: "(2) Nothing in this section prevents a health care
insurer from requesting other medical review of a patient's
condition or treatment."

Renumber: subsequent subsection

EXHIBIT 16
DATE 2-22-91
HB 719

HOUSE OF REPRESENTATIVES

BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

DATE Feb. 22, 1991 ROLL CALL VOTE
BILL NO. HB 719 NUMBER 1

MOTION: _____

Table 719

Motion Failed

NAME	AYE	NO
REP. JOE BARNETT	✓	
REP. STEVE BENEDICT	✓	
REP. BRENT CROMLEY	✓	
REP. TIM DOWELL		✓
REP. ALVIN ELLIS, JR.		✓
REP. STELLA JEAN HANSEN		✓
REP. H.S. "SONNY" HANSON	✓	
REP. TOM KILPATRICK		✓
REP. DICK KNOX	✓	
REP. DON LARSON		✓
REP. SCOTT MCCULLOCH		✓
REP. BOB PAVLOVICH		✓
REP. JOHN SCOTT		✓
REP. DON STEPPLER		✓
REP. ROLPH TUNBY		✓
REP. NORM WALLIN		✓
REP. SHEILA RICE, VICE-CHAIR		✓
REP. BOB BACHINI, CHAIRMAN		✓
TOTAL	5	13

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

BUSINESS & ECONOMIC DEVELOPMENT

COMMITTEE

BILL NO.

HB 719
HB 811

DATE FEB. 22, 1991

SPONSOR(S)

REP. DAVE BROWN

REP. MENAHAN

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
George Wood	Int Self Insurance Assoc	719	✓	
Gregory Blom - Helene	MCA	719		✓
Tom Hopygood	HHHS Assoc Am	719	✓	
M.H. Paudras DC	MCA	719		✓
Lee S. Hudson DC	MCA	719		✓
Reaper & Pambly	Self IF MCA	719		✓
DAVE BROWN	SPONSOR. HO #72	719	●	✓
Marqueline N. Terrell	American Ins Assoc	719	✓	
Robert Zins	MT. Medical ASSN	719	X	
Gene Phillips	AMER. ALLIANCE INS	719	X	
R Asherman	State Farm Ins	719	X	
Steve Brown	Blue Cross - Blue Shield	719	X	
Chlor Gue	Montana Mutual Insurance Assn	719	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

Binnie Tysen

MCA

719

✓

Representative Sheila Rice, sponsor of the bill, stated that the only other reference in 31-1-112 is that finance operation that finances transactions between merchants which is defined in 32-104. 32-104 refers to definitions of merchants and defines financing agency.

Senator Williams asked if someone could define usuary tax.

Jacqueline Terrell responded by saying that the usuary statutes are to do is protect people in loan transactions, generally between private parties, but between persons that aren't otherwise controlled by other law.

Senator Thayer stated that the only thing that he got out of the testimony was that effectively all that this thing will do is put these mutual stock insurance companies in the same category as other major lenders. The testimony stated that they aren't going to change their rates, or would it allow them to raise their rates. Isn't this all that the bill does.

Representative Rice responded by saying that the market regulates the rates. The reason that this bill is brought here is that it was never a question whether or not a mutual stock insurance companies were subject to the usuary laws until very recently within the last two years when that was a charge in a case.

Closing by Sponsor:

Representative Sheila Rice closed by saying that this is fair treatment for insurance companies in Montana. It sends a message that Montana wants these insurance companies as agriculture lenders in Montana. They are a very necessary part of the agriculture scene in Montana, and failure to pass this bill will send an opposite message.

HEARING ON HOUSE BILL 719

Presentation and Opening Statement by Sponsor:

Representative Dave Brown, sponsor of the bill, stated that this bill is all about who may perform independent medical examinations when chiropractic patients are involved. This bill ensures when an independent medical examination is done, either by study of a patients charts and records, or by an actual physical examination of the patient that if that individual is a chiropractic patient, the independent examiner will be a chiropractor. The chiropractor must be licensed and practicing in the state of Montana, the treating physician never preforms this function. In the course of treatment of a patient, from time to time, an insurer may request that an examination must be done by a physician who is not in charge of the current treatment of a patient. This exam is done in order to determine if the current course of treatment is the best course. Usually in practice, these evaluations of chiropractic patient care are preformed by chiropractors. Sometimes exams are preformed by medical doctors, and this can be particularly troublesome. There is a long standing discriminatory attitude on the part of many

medical doctor towards chiropractors. Not only do these MD's not know anything about chiropractic care, that they actively try to steer patients back to MD's who will probably preform surgery or other expensive types of care. This bill is simple, straight forward, and has merit.

Proponents' Testimony:

Dr. Lee Hudson, the president of the Montana chiropractic association and the chiropractic consultant for blue cross blue shield, stated that an independent medical examination is an independent examination by a doctor other than the treating physician, or a review of the treatment records also by a doctor other than the treating physician. Only another chiropractor is qualified to determine the appropriateness of care for a chiropractic patient. They would understand the treatment notes that would be provided in this type of examination, the treatment technics that are being used, and whether those are indicated in this particular case.

Gary Blom, a practicing chiropractor in Helena, Montana, stated that he does independent chiropractic examinations for various insurance companies, and he is contracted to do services for a large medical review corporation in the state. There are some insurance carriers that don't feel that they want to allow the same unbiased courtesy of offering chiropractors. Not all of them utilize our services.

Dr. Pam Blanchard, a practicing chiropractor in Great Falls, Montana, stated that it is very important of having an independent medical exam preformed by an in state practitioner. The United States has set up that chiropractic is set up on a state by state basis by fifty separate practice acts. These practice acts vary from state to state as to what is and what is not chiropractic in that state. If an out of state practitioner is doing a paper review of a patient, a lot of times it becomes evident that a physical examination of that patient should be done.

Dr. Duane Borgstrand, a practicing chiropractor in Red Lodge since 1981 and a member of the board of chiropractors, stated that the basic issue surrounding HB 719 is one of fairness. Fairness for the Montana healthcare consumers who choose chiropractors for their injuries, fairness for the doctors of chiropractic, and fairness for the insurance companies and worker's compensation. People come to chiropractors with the knowledge that they want chiropractic care, and the knowledge that their major medical insurance covers this. There is a growing amount of abuse by some insurance companies where these reviews will be done, and medical doctor will make a decision about a chiropractic patient. Is it fair for someone who doesn't know about chiropractic in the first place, like a medical doctor, or an out of state chiropractor who doesn't know about Montana state laws, to make decisions that might result in the reduction or the denial of these claims? HB 719 would be a simple solution to this.

Bonnie Tippy, executive secretary of the Montana

chiropractic association, stated that HB 719 passed the house by a 65-32 vote. Chiropractors have a minimum of seven years education in order to be chiropractors. Many of the chiropractors practicing in Montana have a minimum of a bachelor's degree in sciences, and four or five years of chiropractic college. Montana has a high percentage of chiropractors who are also diplomates of the American college of chiropractic orthopedics. (See Exhibit 1, and Exhibit 1A-1G).

Opponents' Testimony:

George Wood, executive secretary of the Montana self insurer's association, stated that this bill is not about increasing efficiency and reducing the rates to the employers who pay the premiums. It is not about improved administration, and it is not about improved care to the injured worker. It is special legislation to provide an unique position for one healthcare provider, the chiropractors. It does not provide the same benefits for a medical doctor. Our employers, under the worker's compensation law, are insurers but shouldn't be confused with insurance companies. Page two, lines eleven half way through to line nineteen, we have lost in this bill our ability to refer an injured worker for an examination to determine the most appropriate treatment necessary. This bill puts a burden on the worker's compensation insurer.

Tom Hopgood, representing the health insurance association of America, stated that there was a bill, SB 394 heard in the business and industry committee. It governs and restricts utilization review for all of the medical services that an insurer might receive whether those services of a chiropractor, an medical doctor, etc. The reason of utilization review is the tendency by some providers, and some fields of medical care to over prescribe services. They do this with the knowledge that a third party insurance company is the party that will be paying. Up to fifty percent of medical services that are prescribed are unnecessary from a medical view point. Some providers tailor their services to coincide with the terms of the policy. Who does this bill take money away from and who does this bill give the money to?

Pat Sweeney, representing the state's funds (SCMIF), spoke in opposition of the bill (See Exhibit 3).

Norm Grossfield, an attorney in Helena, Montana who does both claimant and defense work, stated that he opposes this bill because it is writing into the statutes some restrictive language regarding the day to day proper adjustment of the worker's compensation plan. The chiropractic profession should have more involvement with worker's compensation, and the current rules are too restrictive. His concern is not with the chiropractic or medical profession in this instance, his concern is writing in to statute restrictions on the proper adjustment of worker's compensation basis. The insurers need the flexibility in order to evaluate cases.

Oliver Goh, stated that his concern with this bill is a lot broader than it needs to be. It addresses the problem with the

worker's compensation area, and causes problems in the adjustment of claims, which will be detrimental to employers and also insurers. Section one of the bill is very broadly written.

Jacqueline Terrell, representing the American insurance association and speaking today also for Gene Phillips who represents the American alliance of insurers, stated that their concern is with worker's compensation. This bill will place an extreme burden on the private worker's compensation carriers. It will place an increased burden on Montana's state fund. The state fund presently has approximately sixty five percent of the market share. The largest private carrier that is within her association has six percent of the market share. Montana represents only three tenths of one percent of the insurance market share in the United States.

Jerry Lyndorf, representing the Montana medical association, stated that when physicians evaluate physicians in peer review and they have an adverse result, you hear the same complaints that you are hearing today. There are some reasonable limitations that can be imposed on reviews, but looking at this bill the limitations are not reasonable. What the reviewer isn't doing is reviewing the treatment, he is also taking a look as a patient to see if this is treatment that this patient is ought to be receiving and worker's compensation ought to be paying for. That is the important issue in this bill.

Steve Brown, representing blue cross blue shield of Montana, stated that blue cross blue shield uses a chiropractor to review chiropractic claims in its managed care program. This bill would take away the opportunity of blue cross blue shield to consult with a medical doctor in those rare situations where the case is complex, and there may be questions about proper treatment. That is bad law, and bad for the insurance consumer.

Questions From Committee Members:

Senator Gage commented that the parts of the bill that can be corrected, can be corrected without any problems which has to do with the language on page three and four.

Senator Franklin asked if Tom Hopgood would be more specific about increased costs.

Tom Hopgood replied that the reason that we have utilization review is because of the rise of health insurance. The companies are under pressure from their customers to keep the costs down. One of the ways to keep costs down, is attempt to get a handle on the claims that you are paying out. One of the ways that you get a handle on the claims that you are paying out is not to pay claims unless the claim is for a service that is medically necessary. The companies have instituted a program whereby they review the services that an insured is receiving. If the service is not medically necessary, then they let the person know that and they don't pay the claim. That is the way that it cuts down on the costs to the insurance companies. The language in section one, lines seventeen and eighteen is very broad. He proposed

that the language on page two, lines thirteen and fourteen be stricken.

Closing by Sponsor:

Representative Brown closed by adding some correspondence to the record (See Exhibit 2 through Exhibit 22-1). This is not a chiropractic relief bill, it is a patient fairness bill. Chiropractic reviewers are as tough on chiropractors as medical doctors are on medical doctors. Section one is not overly broad, it simply limits chiropractic physical examination and review of the records.

HEARING ON HOUSE BILL 739

Presentation and Opening Statement by Sponsor:

Representative Jim Rice, sponsor of the bill, stated that in those cases where there has been a foreclosure of a mortgage, the lending institution has come in and taken the property back. In cases where there has been a judgement entered and real property is taken for the satisfaction of that judgement. The people who have lost their property in that situation have the right within one year of loosing it to redeem the property, or to buy it back. This is not the typical homeowner situation. This bill sets forth what should be the interest and what should be the cost that the redemptioner pays when buying back his property.

Proponents' Testimony:

Jock Anderson, representing the Montana league of savings institutions, stated anytime a creditor obtains a judgement there is a lien against the property covered by the mortgage, and generally upon the real property. Anytime that real property is sold by the sheriff, to satisfy the debt, in the redemption laws of Montana activate themselves. According to law, all people that are called redemptioners have one year to repurchase the property. The bill changes the interest rate provision.

George Bennett, representing the Montana banker's association, stated that they support the bill for the reasons that have been given. We have not been getting enough bidders at foreclosure sales, this bill would encourage people to do it.

Opponents' Testimony:

None

Questions From Committee Members:

Senator Gage asked if there could be an instance where the judgement does not speak to interest.

Jock Anderson stated no. The judgement statutes now provide

ROLL CALL

BUSINESS AND INDUSTRY COMMITTEE

DATE 3/18/91

52ND LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BRUSKI	Y		
SENATOR FRANKLIN	X		
SENATOR GAGE	X		
SENATOR HAGER	X		
SENATOR NOBLE	X		
SENATOR THAYER	X		
SENATOR WILLIAMS	X		
SENATOR KENNEDY	X		
SENATOR LYNCH	X		

Each day attach to minutes.

3/18/91

BUSINESS & INDUSTRY

VISITORS' REGISTER.

[illegible]

(Please leave prepared statement with Secretary)

**THE AMERICAN
MEDICAL ASSOCIATION
FOUND GUILTY OF
CONSPIRACY**

United States Court of Appeals—February 7, 1990

United States District Court—August 27, 1987

The complete opinion and summary of the
United States Court of Appeals Decision
follows:

Ruling for chiropractors in suit against AMA is upheld by appeals court

By BRENDA C. COLEMAN
Associated Press

CHICAGO — A federal appeals court has upheld a 1987 ruling that the American Medical Association (AMA) violated antitrust laws by trying to destroy the profession of chiropractic, attorneys in the case said Thursday.

The 7th U.S. Circuit Court of Appeals on Wednesday affirmed the finding of U.S. District Judge Susan Getzendanner, who permanently barred the nation's largest organization of physicians from boycotting chiropractors, who treat patients with physical manipulation focused on the spine.

"The experience of the AMA in this case should now put other medical associations, and hospitals dominated by them, on notice that chiropractors will fight for the rights of their patients," attorney George McAndrews, who represented the chiropractors, said in a statement.

Those rights include "fair treatment by tax-supported institutions, hospitals, insurance plans, HMOs and other groups that have burdened those patients with anti-competitive barriers," McAndrews said. HMOs are health maintenance organizations.

The AMA has yet to decide if it

will appeal, said association attorney Kirk Johnson.

The plaintiffs alleged AMA policy had prevented doctors from referring patients to chiropractors or taking referrals from them. The doctors were accused of preventing chiropractors from treating patients at hospitals controlled by medical doctors.

After an eight-week trial, Ms. Getzendanner issued a permanent injunction on Sept. 25, 1987, barring the AMA from "restricting, regulating or impeding" its 275,000 members or the hospitals where they work from associating with chiropractors.

The injunction came four weeks after she found the Chicago-based AMA had engaged in a conspiracy "to contain and eliminate the chiropractic profession."

A three-judge appellate panel, which heard arguments in the case in December, ruled unanimously that Ms. Getzendanner had reached a "reasonable" decision in granting the injunction.

The lawsuit, filed in 1977 by four chiropractors in different states, didn't seek monetary damages but challenged the refusal of medical doctors to acknowledge chiropractors' professional abilities.

BOARD OF CHIROPRACTORS
DEPARTMENT OF COMMERCE

STAN STEPHENS, GOVERNOR

STATE OF MONTANA

(406) 444-5433

HELENA, MONTANA 59620-0407

February 20, 1991

Mr. Bob Bachini, Chairman
Business and Economic Development Committee
Montana House of Representatives
Helena, Montana

Dear Mr. Bachini;

I know of no insurance company that would settle a claim on a damaged automobile without first having one of their agents inspect the car and probably take photos to send to their district office.

Yet, the good people of the State of Montana, who are insured for chiropractic care by various companies, are subjected to a "paper review" by "out of state" and "out of profession" consultants whose first allegiance is to their employers, namely the insurance companies, and who do not have either the opportunity or the desire to examine the patient to make a competent or fair evaluation of the condition for which the patient is, or has been treated.

It makes sense, that if you drive a Ford, you seek a competent Ford dealership for services. If you drive a Cadillac or Mercedes, you don't go to a Honda repair center. For the same reason, medical doctors should review medical claims, and chiropractors should review chiropractic claims, and they should be reviewed by Montana doctors who are familiar with and understand Montana laws and protocol.

Montana chiropractors welcome review of their patients insurance claims, but we do desire that it be done in fairness, with the patients well being in mind.

As chairman of the Montana Board of Chiropractors, I am personally aware of the abuses by out of state and out of profession consultants and the hardships both in terms of finances and physical distress that those abuses result in, not to mention the ill-gained profits of the insurers.

The Montana Board of Chiropractors therefore, very humbly, requests your support for HB 719, limiting independent medical evaluations to chiropractors licensed in the state of Montana.

Sincerely yours,

Lou G. Sage, D.C.
Lou G. Sage, D.C., President
Montana Board of Chiropractors

WASHINGTON, DC -- The U.S. Supreme Court announced November 26, 1990, that it would decline to review a Trial Court and a Court of Appeals finding that the ~~American Medical Association had been~~ ^{guilty of a "lengthy, systematic, successful and unlawful boycott" of doctors of chiropractic and their patients.} 3/18/91 431

The denial of review came after the four chiropractic plaintiffs in the Wilk et al v. AMA et al suit had argued in their opposition to the AMA's petition for a writ of certiorari that the ~~AMA had no justification whatsoever for its direct but private challenge to the 50 state legislatures that licensed chiropractic. Millions have suffered and continue to suffer because of the AMA's arrogant abuse of power.~~

The lawsuit was filed Oct. 13, 1976. During the ensuing 14 years of litigation, the AMA had attempted to justify its boycott while the chiropractors argued that the AMA knew at an early date that chiropractic was licensed, effective, desired by many millions of consumers and a competitive threat to medical physicians.

"The ACA is extremely pleased that this 14-year legal battle has ended in chiropractic's favor," said ACA Executive Vice President J. Ray Morgan. "However, the chiropractic community must be aware that it has won simply that, a legal battle. The real fight lies ahead in that the chiropractic profession must work together with the medical community for the betterment of the nation's health care."

"This makes the third time that the AMA has lost in the Supreme Court," said the plaintiffs' attorney and ACA General Counsel George P. McAndrews, Esq. "In fact, it has never won at that level. Time has been running out on the AMA's ability to bully other health care providers in the increasingly competitive health care market. The studies, from reputable medical and governmental sources, have been increasingly pointing to the fact that members of the AMA have been deprived of access to more effective health care procedures by a boycott that denied them and their patients access to the documented skills of doctors of chiropractic. The AMA has been tripped up by the very scientific studies that it demanded and which now have been used in court to confirm the finding of guilty in the antitrust case. It is certainly hoped that medical and chiropractic physicians, recognizing the scientific proof of the efficacy of chiropractic care, will now cooperate for the benefit of patients everywhere."

The chiropractors in their opposition to the AMA's request to have the Supreme Court review the case, were aided by numerous ~~scientific studies that have found that chiropractic care is up to twice as effective as medical physician care for non-surgical, neuro-mechanical correction of problems related to the musculoskeletal system.~~ As recently as June of 1990, a lengthy, prospective, scientific study of chiropractic care in Great Britain, when measured against corresponding medical care at 10 hospital outpatient centers, concluded that "chiropractic almost certainly confers worthwhile, long-term benefit in comparison with hospital outpatient management,"

HOUSE BILL 719, INTRODUCED BY REPRESENTATIVE DAVE BROWN: A BILL FOR AN ACT ENTITLED: "AN ACT RESTRICTING PERSONS WHO MAY CONDUCT A PHYSICAL EXAMINATION OR REVIEW OF CHIROPRACTIC RECORDS ON BEHALF OF AN INSURER; SENATE BUSINESS & INDUSTRY

EXHIBIT NO. 1D
DATE 3/18/91
BILL NO. HB 719

Question: What does HB 719 do? 

Answer: HB 719 insures that when an independent medical examination is done either by study of a physician's records or by an actual physical examination of the patient, that if that individual is a chiropractic patient, the independent examiner will be a chiropractor. In addition, that chiropractor must be licensed by and practicing in the state of Montana. Remember, the treating physician will never perform this function.

Question: What is an Independent medical evaluation? 

Answer: In the course of treatment of a patient, from time-to-time an insurer will request that an exam should be done by a physician not in charge of the current treatment of the patient. This exam is done in order to determine if the current course of treatment is the best course, if the patient is improving, and if anything needs to be changed. These exams can be done through a paper review of physicians' chart notes, an actual physical examination of the patient, and oftentimes both.

Question: Don't chiropractors perform IME's on chiropractic patients now?

Answer: It is the general practice that IME's of chiropractic patients are performed by chiropractors, but there are some insurers who do not follow this practice. We are unable to find the reasons for this. In some instances, the examination is actually done by someone located out-of-state, as far away as Peoria, Illinois. There are cases where these reviews will be performed by a nurse or a medical doctor, individuals who have little, if any, knowledge of chiropractic care.

Question: Why is it a problem for an out-of-state chiropractor to do these evaluations? 

Answer: First and foremost, an out-of-state physician cannot perform a physical examination of a patient. It is very difficult in many cases to make a determination regarding patient care and future treatment needs without doing a physical examination. Also, out-of-state people have very little, if any, knowledge regarding Montana law or protocols.

All they can do is a paper review.

Question: Are these people full-time employees of insurance companies? 

Answer: Many times they are, and we believe that this creates a definite conflict of interest. Are they evaluating patient records in order to determine what is best for the patient or what is best for the insurance company? HB 719 solves many of these problems.

Question: Do chiropractors perform IMEs on patients of medical doctors?

Answer: Absolutely not, and if it ever happened, the M.D.s would be incensed. What is good for one type of provider should be good for the next. Montana chiropractors are primary health care providers, with extensive training and skills in diagnosis and treatment. These diagnostic skills help them to know when to refer a patient to another type of provider.

Question: Didn't a bill similar to this pass last session. 

Answer: Yes, last session a bill was passed which required that, in worker's compensation cases, if the treating physician is a chiropractor, then the impairment evaluation can be done by a chiropractor. The bill, at our request, also required that in order to do an impairment evaluation, chiropractors must be certified as evaluators by the state board. The rules implemented require a minimum of 36 hours of education followed by a day-long test on impairment evaluation. The Doctors of Chiropractic in Montana have asked for, and received, a tougher criteria for doing these evaluations than medical doctors, and many workers compensation employees will say that they are some of the best evaluators in the state because of it.

In a nutshell: 

HB 719 is a fair bill. It mirrors legislation which has passed in several other states, including Minnesota just last year. We believe that insurers should be willing to deal in good faith with the people paying the bill... health insurance consumers. Those consumers, should they choose to use a chiropractor for their health care, deserve to have their reviews done by a chiropractor. There is still a great deal of prejudice against D.C.s by the traditional medical community, and patients of chiropractic should not also be subjected to this prejudice. This is legislation which, if argued on its merits only, should pass easily. Please do not allow insurers to kill it by quiet assassination by making unfair and erroneous comments about just what this bill does and about chiropractic care in general.

49ers put game in chiropractors' hands

NEW ORLEANS — Chiropractor Nicholas J. Athens stripped the megahyped Super Bowl to its bare bones.

Athens, whose practice is in San Carlos, Calif., says 35 of the 47 49ers came to him and associate Jody L. Serra of Lebanon, N.J., for treatment Saturday night in the Hilton Hotel.

Others visited him Sunday morning, just hours before the Super Bowl.

"I'm like a body mechanic," Athens said. "When something feels good to their bodies, they stick with it."

Athens is paid by the players, not the 49ers. He said trainers and team physicians still don't embrace his methods. "They are set in their ways and may never change," he says.

He began working with Roger Craig in 1982.

"He was seven years ahead of his time. He stood up to the controversy," said Athens. "He wanted drug-free health care, and he hasn't missed a game in eight years."

Athens says "one by one" the 49ers have started to come to him. Jerry Rice and Joe Montana are among his patients.

The chiropractic game plan is to keep the spine balanced. "We look at spine as the circuit breaker to the body," Athens said.

Players like Athens' pregame treatment enough that Serra comes to their hotel when they play road games. He hopes someday the team will employ him as its chiropractor.

— Kevin Allen

EXHIBIT NO. 1 FDATE 3/18/91BILL NO. H.B. 719

Dear Montana Senate Members:

Whereas, the quality of chiropractic care provided to and received by Montana residents has been negatively affected in certain cases by the activities of independent chiropractic medical examiners, and

Whereas, health care insurers often employ persons who are not qualified to evaluate Montana claims, conduct a physical examination, or review chiropractic records to aid the insurer in making a determination regarding the propriety of chiropractic treatment and the costs of the treatment; and

Whereas, the ability of Montana chiropractors to meet uniform standards of treatment and patient care is impaired because the criteria applied by persons conducting the examinations or record reviews are subjective and differ widely among the persons, resulting in a wide variance in the procedures employed; and

Whereas, the ability of Montana chiropractors to provide timely and effective chiropractic care to Montana residents is impaired because the persons conducting the examinations or record reviews, especially those providing the services from outside Montana, are often inaccessible to Montana chiropractors,

We, the patients of Montana chiropractors urge the Montana Senate to enact House Bill 719, which resolves these problems. (Use back of page if necessary)

NAME

CITY

1. Marilyn Vine	Vida, Mont. 590
2. Stanley Mc Lindholm	^{P.O. Box 493} Sidney, Montana 59211
3. Lillian E. Lindholm	P.O. Box 493, Sidney, Mt.
4. Fred R. Poland	Box 264 Culbertson MT 59
5. Bruce D. Watt	Box 371 Sidney, MT 59270
6. Carol Edvardson	^{706 8th St. S.E.} Sidney, Mt. 59270
7. David Cox	Box 19 Fourmoun Mont. 59271
8. Donald Anderson	^{1001 14th St. S.W.} Sidney, MT 59270
9. Evelyn Ekness 121-6th St. SE, Sidney	^{10th Street S. Sidney} 59270
10. Ralph Allard	^{R.R. 2, Box 382} 10113 Pine Sul, Sidney
11. Violet 777 Tanglew	Savage, MT 59242
12. Violet 777 Tanglew	Box 98 Prairie, MT 59217

March 14, 1991

SENATE BUSINESS & INDUS

EXHIBIT NO 2P

DATE 3/18/91

BILL NO HB 919

Dear Sir:

I support the house bill

719.

Sincerely yours,

Gary Parni
Linda Parni

March 191

Dear Sir:

I support the house bill

719.

Sincerely yours,

Harry P. Parnell
Gundw Parnell

There were 68 more pages of signatures supporting HB 719. They can be viewed at the archives.

HB 719
Written Testimony of
Patrick J. Sweeney
President, SCMIF

SENATE BUSINESS & INDUSTRY
COMMITTEE NO. _____
DATE 5/18/91
BILL NO. HB 719

This bill would to deny a workers' compensation insurer the right to have a physical examination of a patient or review of the patient's records by a medical doctor if the patient is being seen by a chiropractor, when the insurer is attempting to determine whether or not further chiropractic care of a patient or whether certain chiropractic services should be allowed.

The bill only allows a chiropractor to determine whether or not chiropractor services should be covered or continued.

Problems with this bill are as follows:

1. This bill interferes with an insurance company adjuster's ability to handle a claim which is in the workers' and the employer's best interest. Typically a medical review of a chiropractor's treatment is only requested when treatment has gone on for a prolonged period of time with no or little results or certain services are questioned. At that time a claims adjuster may question whether or not the claimant has a condition which should be treated instead by a medical physician or whether or not continued chiropractic care is warranted.- This bill would potentially injure a claimant in that they may not realize that additional medical care is warranted. -
2. This Bill is not about cost containment. The State Fund is concerned about cost containment in workers' compensation and we know this Legislature is too. This has been demonstrated by the passage of SB 130 which requires the use of generic drugs in workers' compensation cases.

It is not cost effective for an employer's compensation policy to pay for chiropractic care if it is unwarranted or unneeded and this Bill allows no one but another chiropractor to say when it should stop or what services should be paid for.- I would like to read you a question which was answered in the CareWise newsletter which is a publication of Health Incentives, Inc.: -

- How do you feel about chiropractors?

The problem with chiropractors is that some of them don't know when to stop. The patient is bent over and can't straighten up. A good chiropractor who knows what he's doing can help you get straightened up. But as soon as you're upright and he's taught you exercises to maintain that, he should release you. If he signs you up like an Arthur Murray dance course for two years, then there's a problem. -

3. The State Fund has attempted to work with the chiropractors to arrive at guidelines for chiropractic care in Montana, however, at this point the parties have not been able to reach any agreements on guidelines for chiropractic care. The State Fund is interested in working out these guidelines for chiropractic care with the chiropractors in Montana in that it would give both chiropractors and insurance adjusters some parameters on what treatment is acceptable and what treatment is not acceptable, as well as the duration of such treatment.

However, the State Fund will consider supporting this bill if the committee would add an amendment to HB 719. The amendment would limit chiropractic care for a period of 30 days from the date of the first visit on the claim or for 12 visits, whichever first occurs. We feel this amendment would be reasonable and not without precedent in that it is based upon a statute recently passed in Oregon for their Workers' Compensation Act. By limiting treatment times, this also limits any need for a claims adjuster to be concerned as to whether a claimant's condition warrants medical treatment vs. chiropractic treatment or whether or not treatment has gone on for an unwarranted period of time.

HB719A.DOC

EXECUTIVE ACTION ON HOUSE BILL 538Motion:

Senator Noble moved to amend HB 538 by inserting a termination date of July 1, 1993.

Senator Noble moved HB 538 be not concurred in as amended.

Discussion:

Senator Gage stated that there seems to be a considerable amount of confusion among the people who are involved with this bill as to what the bill is really doing. He had a couple of retailers visit with him after the hearing, and it was there option that this bill applies to all products that are sold by a person who happens to sell motor fuel products. The response that he got from Representative Bradley when he asked her about the language that says other cases on page two, line nineteen-is that talking about only the cost in regard to motor fuel products, and she said yes. The two retailer's response was she made an error in her response.

Senator Noble stated that it goes back to basics, we want to subsidize an industry, where are we going to stop?

Senator Thayer stated that another point of confusion is he had a call from a station operator in Great Falls, Montana, and he said that they can't operate on six percent. Senator Thayer told him that the bill limits you to six percent. The station operator replied that he didn't think so.

Senator Lynch stated six percent was the minimum.

Steve Visocan, past president of the western petroleum marketer's association, stated that in drafting this bill they used several other state's legislation. (See Exhibit 6).

Senator Kennedy stated that he looks at the bill as keeping the big guy from driving the little guy out of business by selling below cost, and having the financial backing to do that. This bill is for the protection of the little guy.

Senator Kennedy spoke against the motion by Senator Noble that HB 538 be not concurred in as amended. This is clarifying some law that is on the books already.

Amendments, Discussion, and Votes:

The motion by Senator Noble to amend HB 538 by inserting a termination date of July 1, 1993 passed unanimously.

Recommendation and Vote:

The motion by Senator Noble that HB 538 be not concurred in as amended passed 5 to 4 vote.

Senator Kennedy requested a minority report for HB 538.

EXECUTIVE ACTION ON HOUSE BILL 719

Motion:

Senator Thayer moved to amend HB 719 with the amendments proposed by Tom Hopgood.

Senator Noble moved HB 719 be concurred in as amended.

Discussion:

None

Amendments, Discussion, and Votes:

Tom Hopgood proposed some amendments to the bill (See attached copy).

Bonnie Tippy stated that she is in agreement with the amendments proposed by Tom Hopgood.

The motion by Senator Thayer to amend HB 719 with the amendments proposed by Tom Hopgood passed unanimously.

Recommendation and Vote:

The motion by Senator Noble that HB 719 be concurred in as amended passed 6 to 3 vote.

EXECUTIVE ACTION ON HOUSE BILL 739

Motion:

Senator Gage moved to amend HB 739.

Senator Bruski moved HB 739 be concurred in as amended.

Discussion:

None

Amendments, Discussion, and Votes:

Bart Campbell stated that this amendment came from a concern of Senator Thayer about mortgage, foreclosures, and trust indentures. On line five, it would now read an act revising the law relating to redemption of real property. When you get back to the code at 25-13, part eight. It pulls in all of the sections and parts in front of it. Those parts are very specific as to what kinds of foreclosure sales you are dealing with. They deal with execution sales. This language would be taken out of the title. The other change was pursuant to Senator Gage on page six, the new language on one and two. Senator Gage felt that wasn't really clear. He deleted that language, and inserted instead any payments made under 25-13-802 sub 2 and 3, which are payments which are to keep up the taxes on the property. Those payments must be subtracted from the credit for rents and

ROLL CALL

BUSINESS AND INDUSTRY COMMITTEE

DATE

3/20/91

52ND LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BRUSKI	X		
SENATOR FRANKLIN	X		
SENATOR GAGE	X		
SENATOR HAGER	X		
SENATOR NOBLE	X		
SENATOR THAYER	X		
SENATOR WILLIAMS	X		
SENATOR KENNEDY	X		
SENATOR LYNCH	X		

Each day attach to minutes.

Amendments to House Bill No. 719
Third Reading Copy

For the Committee on Business and Industry

Prepared by Bart Campbell
March 22, 1991

1. Page 2, line 10 through page 3, line 1.

Following: "(1)" on page 2, line 10

Strike: remainder of line 10 through "week" on line 1

Insert: "If a patient's attending health care professional is a licensed chiropractor, the following provisions govern the conduct of a utilization review of the health care services rendered to the patient by the chiropractor:

(a) If an independent physical examination is required by the insurer, it must be conducted by a licensed chiropractor.

(b) If a review of the patient's or the chiropractor's records is required by the insurer in the course of an appeal or a redetermination of an adverse determination of medical necessity or appropriateness made pursuant to an insurer's review, the review must be conducted by a person trained in the field of chiropractic medicine"

2. Page 3, line 4.

Following: "TREATMENT"

Insert: "by another chiropractor or medical provider"

3. Page 3, line 5.

Following: line 4

Insert: "(3) The provisions of this section do not apply to routine claim administration or determination by an insurer."

Renumber: subsequent subsection

4. Page 3, line 14.

Following: ";

Insert: "and"

5. Page 3, lines 15 and 16.

Strike: subsection (f) in its entirety

Renumber: subsequent subsection

PROPOSED AMENDMENT

to

HOUSE BILL 719

House Bill 719 is proposed to be amended as follows:

NEW SECTION. Section 1. Where a patient's attending health care professional is a licensed chiropractor, the following provisions govern the conduct of a utilization review of the health care services rendered to the patient by the chiropractor:

1) Where an independent physical examination is required by the insurer, the same must be conducted by a licensed chiropractor.

2) Where a review of the patient's or the chiropractor's records is required by the insurer in the course of an appeal or redetermination of an adverse determination of medical necessity or appropriateness made pursuant to an insurer's utilization review, the same must be conducted by a person trained in the field of chiropractic medicine.

3) Nothing in this section etc. etc.

4) Nothing in this section etc. etc.

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/26/91 Bill No. HB 719 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS	X	
SENATOR THAYER	X	
SENATOR NOBLE	X	
SENATOR HAGER	X	
SENATOR GAGE	X	
SENATOR FRANKLIN	X	
SENATOR BRUSKI	X	
SENATOR KENNEDY	X	
SENATOR LYNCH	X	

DARA ANDERSON

J.D. LYNCH

Secretary

Chairman

^{Chair}
Motion:

AMENDMENTS FROM TOM HOPGOOD

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 3/26/91 Bill No. HB 719 Time 10 a.m.

NAME	YES	NO
SENATOR WILLIAMS	X	
SENATOR THAYER	X	
SENATOR NOBLE		X
SENATOR HAGER	X	
SENATOR GAGE	X	
SENATOR FRANKLIN		X
SENATOR BRUSKI		X
SENATOR KENNEDY	X	
SENATOR LYNCH	X	

DARA ANDERSON

J.D. LYNCH

Secretary

Chairman

Motion: BE CONCURRED IN AS AMENDED

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 26, 1991

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration House Bill No. 719 (third reading copy as amended - blue), respectfully report that House Bill No. 719 be amended and as so amended be concurred in:

1. Page 2, line 10 through page 3, line 1.

Following: "(1)" on page 2, line 10

Strike: remainder of line 10 through "week" on page 3, line 1

Insert: "If a patient's attending health care professional is a licensed chiropractor, the following provisions govern the conduct of a utilization review of the health care services rendered to the patient by the chiropractor:

(a) If an independent physical examination is required by the insurer, it must be conducted by a licensed chiropractor.

(b) If a review of the patient's or the chiropractor's records is required by the insurer in the course of an appeal or a redetermination of an adverse determination of medical necessity or appropriateness made pursuant to an insurer's review, the review must be conducted by a person trained in the field of chiropractic medicine"

2. Page 3, line 4.

Following: "TREATMENT"

Insert: "by another chiropractor or medical provider"

3. Page 3, line 5.

Following: line 4

Insert: "(3) The provisions of this section do not apply to routine claim administration or determination by an insurer."

Renumber: subsequent subsection

4. Page 3, line 14.

Following: ";

Insert: "and"

5. Page 3, lines 15 and 16.

Strike: subsection (f) in its entirety

Renumber: subsequent subsection

Signed: _____

John "J.D." Lynch, Chairman

Jm 3-26-91
And. Coord.

Sec. of Senate